

REMARKS/ARGUMENTS

Initially, Applicant would like to express appreciation to the Examiner for the detailed Official Action provided. However, Applicant notes that the Examiner has not indicated whether the replacement sheet (corrected FIGS. 1 and 2), filed December 19, 2005, is acceptable; and it is requested that the Examiner indicate the same in the next Official Action.

Further, because the present amendments to claims 1 and the addition of claims 4 and 5 are believed to raise new issues, the present Response is being filed concurrently with a Request for Continued Examination.

Additionally, the Specification (page 2, lines 6-19) has been amended to be more consistent with the recitations of currently amended claim 1. In this regard, both the Specification and claim 1 broadly recite features of the present disclosure as shown in FIGS. 1-5. No new matter is believed to be entered by the present Amendments.

Upon entry of the above amendments claim 1 will have been amended and claims 4 and 5 will have been added. Claims 1-5 are currently pending. Applicant respectfully requests reconsideration of the outstanding objection and rejections, and allowance of all the claims pending in the present application.

In the Official Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over SCHARF (U.S. Patent No. 6,682,563).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on these grounds, nevertheless, Applicant has amended independent claim 1 to clearly obviate the above-noted grounds of rejection in order to expedite prosecution

of the present application. In this regard, Applicant notes that SCHARF fails to teach or suggest the combination of elements as recited in amended claim 1. In particular, claim 1, as amended, sets forth a rhombic vertebra body plate including, inter alia, a plurality of screw insertion holes provided on or near at least one of the first and second diagonal lines of the main body portion, wherein the plurality of screw insertion holes have substantially the same shape and size.

Applicant submits that SCHARF, alone or in any proper combination, lacks any disclosure of the aforementioned features.

The Examiner cites to SCHARF, FIGS. 3 and 5, as purportedly teaching a rhombic plate. In this regard, the Examiner takes the position that at least one hole is provided on the first diagonal or second diagonal lines (see Page 2, Para. 10 of the Official Action). However, SCHARF discloses a plurality of apertures (31 and 32) which have a substantially different shape and size, i.e., SCHARF discloses both circular screw-receiving apertures (31) and slotted screw-receiving apertures (32). Thus, SCHARF does not disclose a plurality of screw insertion holes provided on or near at least one of the first and second diagonal lines of the main body portion, wherein the plurality of screw insertion holes have substantially the same shape and size. One advantage of the aforementioned features is that it is easier to machine screw insertion holes having substantially the same shape in size, rather than machining insertion holes having a different shape and size.

A further aspect of an embodiment of the present disclosure, as recited in claim 1, sets forth a rhombic vertebra body plate including, inter alia, a main body portion having a generally point symmetric shape around a point in which a first diagonal line

connecting a pair of acute angle portions having acute angles opposing to each other, crosses a second diagonal line connecting a pair of obtuse angle portions having obtuse angles opposing to each other....at least one spike extending continuously from the main body portion and provided on or near each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom.

Applicant submits that that SCHARF, alone or in any proper combination, lacks any disclosure of the aforementioned features.

The Examiner takes the position that the main body includes both the plate and the adjoining spacer (see Page 3, last Para. of the Official Action). However, SCHARF clearly discloses a spacing (see FIG. 4) between the ridge members (35), which the Examiner has characterized as spikes, and the flat surface of the plate member (30). Thus, SCHARF fails to disclose at least one spike extending continuously from the main body portion and provided on or near each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom. Further, it is clear from the language of claim 1 that it is the main body portion that has first and second diagonal lines, respectively, connecting a pair of acute and obtuse angle portions, having acute and obtuse angles opposing each other. Therefore, the only element of SCHARF that arguably discloses first and second diagonal lines is the plate (30). Thus, again, SCHARF fails to disclose at least one spike extending continuously from the main body portion and provided on or near each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom. Accordingly, the rejection of claims 1-3 under 35 U.S.C. § 103(a) is improper for all the above reasons and withdrawal thereof is respectfully requested.

A further aspect of an embodiment of the present disclosure, as recited in new dependent claim 4, sets forth a vertebra body plate including, inter alia, at least one spike configured to stick into a vertebra body.

Applicant submits that that SCHARF, alone or in any proper combination, lacks any disclosure of the aforementioned features.

In this regard, SCHARF discloses the beveled ridges 25 cutting laterally into the prepared surfaces (Col. 4, line 66 and FIGS. 4 and 5). Therefore, the spike cuts into the prepared surface to a much lesser extent in the perpendicular direction than it does in the lateral direction. However, this is very different structurally from the spike(s) of the present invention, which perpendicularly sticks into the vertebra body. Thus, SCHARF does not disclose at least one spike configured to stick into a vertebra body.

A further aspect of an embodiment of the present disclosure, as recited in new dependent claim 5, sets forth a vertebra body plate including, inter alia, the main body portion being formed having a curved shape corresponding to a peripheral surface of a vertebra body.

Applicant submits that that SCHARF, alone or in any proper combination, lacks any disclosure of the aforementioned features.

In this regard, SCHARF discloses a plate (30), which corresponds to a peripheral surface of a vertebra body, having a flat surface (see FIGS. 4 and 5). Thus, SCHARF does not disclose the main body portion being formed having a curved shape corresponding to a peripheral surface of a vertebra body.

In view of the amendments and arguments herein, Applicant submits that independent claim 1 is in condition for allowance. With regard to dependent claims 2-5,

P24195.A07

Applicant asserts that they are allowable on their own merit, as well as because they depend from independent claim 1, which Applicant has shown to be allowable.

Thus, it is respectfully submitted that all of the claims in the present application are clearly patentable over the references cited by the Examiner, either alone or in combination, and an indication to such effect is respectfully requested, in due course.

SUMMARY

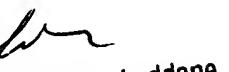
Applicant submits that the present application is in condition for allowance, and respectfully request an indication to that effect. Applicant has argued the allowability of the claims and pointed out deficiencies of the applied reference. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Nobumasa SUZUK


Bruce H. Bernstein
Reg. No. 29,027


William E. Lyddane
Reg. No. 41,568

April 25, 2006
GREENBLUM & BERNSTEIN, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191
(703) 716-1191